

with limited polymorphism in humans and also in other mammals and even in insects."

Dr. Rubinstein described each of the articles and that the articles each relate to non-coding region polymorphisms that are indicative of coding region alleles. After describing the subject matter of the articles, Dr. Rubinstein concluded:

In view of the generality of the phenomenon in so varied a group of genes and species, one would expect that any polymorphic genetic locus would have correlated variation in its coding and non-coding regions.

The criteria for evaluating declarations traversing rejections are set forth in M.P.E.P. 716. The criteria are (1) the declaration is timely filed; (2) the declaration must set forth facts, not merely conclusions and the facts must be pertinent to the rejection; and (3) the declaration should be scrutinized closely and the facts presented weighed with care, particularly if the declarant is interested in the outcome of the case.

Dr. Rubinstein's Declaration is submitted in response to a non-final rejection. Therefore, the Declaration is timely. In his Declaration, Dr. Rubinstein described data in recent journal articles. Therefore, Dr. Rubinstein provided facts, not merely conclusions. The facts presented by Dr. Rubinstein are pertinent to the rejection because the facts relate to whether non-coding region polymorphisms in non-HLA genes could be used to identify alleles. Therefore, the facts are pertinent to the rejection. Finally, Dr. Rubinstein is neither a co-inventor, nor an employee of the assignee of the application. Therefore, the statements made by Dr. Rubinstein were not made to further any interests of Dr. Rubinstein.

There are now Declarations by Dr. Rubinstein, Dr. Gresshoff, and Dr. Hood evidencing that the method described and claimed in this application is applicable to genes generally and not limited to HLA or related genes. Withdrawal of all of the rejections is respectfully requested.

LAW OFFICES OF
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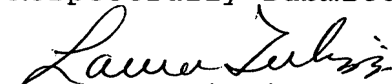
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07/949,652

If a telephone conference would expedite the prosecution of this application, the Examiner is requested to telephone and confer with the undersigned Attorney.

Dated: August 4, 1994

Respectfully submitted,



Laura Terlizzi
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Reg. No. 31,307

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C., 20231, on August 4, 1994.

8/4/94
Date of Signature


Attorney for Applicant